

# EXHIBIT

1

THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
NO. 4:09-CV-00181-D

REX T. GILBERT, JR. and )  
DANIELA L. GILBERT, )  
Plaintiffs, )  
)  
v. )  
)  
)  
)  
DEUTSCHE BANK TRUST COMPANY )  
AMERICAS, As Trustee for, )  
RESIDENTIAL ACCREDIT LOANS, INC., )  
DAVID A. SIMPSON, P.C., Substitute Trustee, )  
RESIDENTIAL FUNDING, LLC, and )  
GMAC MORTGAGE, LLC, )  
Defendants. )  
)

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**AFFIDAVIT OF THOMAS A. COX**

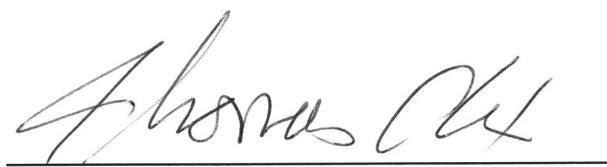
I, Thomas A. Cox, being duly sworn, hereby depose and say:

1. I am Thomas A. Cox, an attorney-at-law licensed to practice before the courts of the State of Maine (Maine Bar No. 1248) and the United States District Court for the District of Maine. I am co-counsel for the Defendant in the matter of *Federal National Mortgage Association v. Bradbury*, BRI-RE-09-65 (Me. Dist. Ct., Dist. 9, Nor. Cumb.) now pending.

2. In *Federal National Mortgage Association v. Bradbury*, *id.*, I deposed Jeffrey D. Stephan, a Limited Signing Officer of GMAC Mortgage, LLC, on June 7, 2010 in Narberth, Pennsylvania, Pennsylvania.

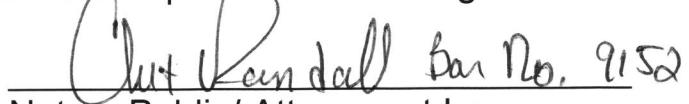
3. I have in my possession the original transcript of the aforesaid deposition of Jeffrey D. Stephan and have read it. A copy of that transcript is attached to this Affidavit as Exhibit A. Said attached deposition transcript accurately sets forth the testimony given under oath in my presence by Jeffrey D. Stephan on June 7, 2010. No signature page or errata sheet for this deposition transcript has been presented or filed on behalf of Mr. Stephan

DATED: October 12, 2010

  
\_\_\_\_\_  
Thomas A. Cox

STATE OF MAINE  
CUMBERLAND, ss

Personally appeared the above signed Thomas A. Cox before me this 11th day of October, 2010 and stated under oath that the foregoing statements made by him are true of his own personal knowledge.

  
\_\_\_\_\_  
Curt Kendall Bar No. 9152  
Notary Public/ Attorney at Law

MAINE DISTRICT COURT, DISTRICT NINE  
DIVISION OF NORTHERN CUMBERLAND

- - -  
FEDERAL NATIONAL :  
MORTGAGE ASSOCIATION : DOCKET NO.  
Plaintiff : BRI-RE-09-65  
:  
V. :  
:  
NICOLE M. BRADBURY :  
Defendant:  
and :  
GMAC MORTGAGE, LLC :  
d/b/a DITECH, LLC.COM :  
and BANK OF AMERICA, NA:  
Parties in Interest:  
- - -

June 7, 2010

- - -  
Oral deposition of JEFFREY D.

STEPHAN, taken pursuant to notice, was held at the law offices of LUNDY FLITTER BELDECOS & BERGER, P.C., 450 N. Narberth Avenue, Narberth, Pennsylvania 19072, commencing at 10:10 a.m., on the above date, before Susan B. Berkowitz, a Registered Professional Reporter and Notary Public in the Commonwealth of Pennsylvania.

*Exhibit A*

MAINE DISTRICT COURT, DISTRICT NINE  
DIVISION OF NORTHERN CUMBERLAND

- - -

FEDERAL NATIONAL :  
MORTGAGE ASSOCIATION : DOCKET NO.  
Plaintiff : BRI-RE-09-65  
:  
V. :  
:  
NICOLE M. BRADBURY :  
Defendant:  
and :  
GMAC MORTGAGE, LLC :  
d/b/a DITECH, LLC.COM :  
and BANK OF AMERICA, NA:  
Parties in Interest:

- - -

June 7, 2010

- - -

Oral deposition of JEFFREY D. STEPHAN, taken pursuant to notice, was held at the law offices of LUNDY FLITTER BELDECOS & BERGER, P.C., 450 N. Narberth Avenue, Narberth, Pennsylvania 19072, commencing at 10:10 a.m., on the above date, before Susan B. Berkowitz, a Registered Professional Reporter and Notary Public in the Commonwealth of Pennsylvania.

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## APPEARANCES:

BRIAN M. FLEISCHER, ESQUIRE  
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Counsel for GMAC

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## VIA TELEPHONE:

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Counsel for GMAC and Fannie Mae

1

( Document marked Exhibit-1  
for identification. )

4

5 (It is hereby stipulated and  
6 agreed by and between counsel that  
7 sealing, filing and certification  
8 are waived; and that all  
9 objections, except as to the form  
10 of questions, be reserved until  
11 the time of trial.)

12

16

17 MS. PITNEY: I would like to  
18 put on the record that we  
19 requested a stipulation, and  
20 Attorney Cox has denied our  
21 request for that stipulation. And  
22 that would be a stipulation that  
23 this deposition transcript be used  
24 for this case, FNMA versus  
25 Bradbury, only.

1 STEPHAN

2 MR. COX: Mr. Fleischer, we  
3 understand that Julia Pitney  
4 represents the plaintiff in this  
5 case. Who do you represent today?

6 MR. FLEISCHER: I believe  
7 Ms. Pitney both represents Fannie  
8 Mae and GMAC, and I am here on  
9 GMAC's behalf.

10 MR. COX: GMAC is neither a  
11 plaintiff nor defendant in this  
12 case, so we may have some issues  
13 around that, but we'll cross that  
14 bridge when we get to it.

15 - - -

16 EXAMINATION

17 - - -

18 BY MR. COX:

19 Q. Mr. Stephan, for the record,  
20 would you state your full name, please?

21 A. Jeffrey Stephan.

22 Q. How old are you?

23 A. I am 41, in June.

24 Q. You live in Sellersville,  
25 Pennsylvania?

1 STEPHAN

2 A. That is correct.

3 Q. Have you had your deposition  
4 taken previously?

5 A. In other cases, yes.

6 Q. How many other cases?

7 A. This will be my third time.

8 Q. What other cases were you  
9 deposed in, to your recollection?

10 A. In what kind of cases?

11 Q. Well, can you remember the  
12 names of the cases?

13 A. No, I don't.

14 Q. When is the last time that  
15 you've had your deposition taken?

16 A. I would approximate two,  
17 three months ago.

18 Q. Was that in Florida?

19 A. No. That was in New Jersey.

20 Q. That would have been in  
21 2010?

22 A. Yes.

23 Q. Then you were deposed in  
24 Florida in December of 2009?

25 A. That is correct.

1 STEPHAN

2 Q. When was the other  
3 deposition, the third deposition?

4 A. This one today is the third.

5 Q. Have you testified in court  
6 as a witness before?

7 A. No.

8 Q. Did you review any documents  
9 to prepare for this deposition?

10 A. Yes.

11 Q. What documents did you  
12 review?

13 A. I looked at the deposition  
14 that was sent to me. And I went over the  
15 Complaint with Brian.

16 THE WITNESS: When was that,  
17 Thursday, Wednesday?

18 MR. FLEISCHER: You're  
19 directed not to say anything with  
20 regard to what we spoke about,  
21 but, yes, you can answer to what  
22 you looked at.

23 THE WITNESS: Yes.

24 MS. PITNEY: I'm sorry to  
25 interrupt. I'm just having a

1 STEPHAN

2 little difficulty hearing you. Is  
3 there any way to push the phone a  
4 little closer to Mr. Stephan?

5 MR. FLEISCHER: Okay. And,  
6 Julia, let me know during the  
7 course if there's still a problem.

8 MS. PITNEY: You were doing  
9 fine, and then it got a little  
10 fuzzy.

11 THE WITNESS: I'll talk  
12 louder.

13 MS. PITNEY: Thank you.

14 BY MR. COX:

15 Q. What deposition did you look  
16 at?

17 A. The deposition for this  
18 case.

19 Q. The Deposition Notice?

20 A. Right, the Deposition  
21 Notice.

22 Q. It was not another  
23 deposition transcript --

24 A. No.

25 Q. -- that you were referring

1 STEPHAN

2 to?

3 A. No.

4 MR. FLEISCHER: Let him  
5 finish the question, and then  
6 respond, because it makes it  
7 cleaner for the transcript.

8 THE WITNESS: Thank you.

9 BY MR. COX:

10 Q. What is your educational  
11 background?

12 A. I have a four-year degree at  
13 Penn State University in liberal arts.

14 Q. When did you go to work for  
15 GMAC?

16 A. I began work at GMAC  
17 September 30th of '04.

18 Q. What was your work history,  
19 in a summary form, before you went to  
20 work for GMAC?

21 A. I have done collections and  
22 mortgage foreclosures for other  
23 companies.

24 Q. Who have you done mortgage  
25 foreclosure work for?

1 STEPHAN

2 A. ContiMortgage, Fairbanks  
3 Capital, GMAC.

4 Q. The first one, I'm not sure  
5 about. Is that Conti, C-O-N-T-E (sic)?

6 A. C-O-N-T-I.

7 Q. What period of time did you  
8 work for ContiMortgage?

9 A. I began there in '92. I  
10 believe I left there in '98.

11 Q. What years, approximately,  
12 did you work for Fairbanks Capital?

13 A. '98 to '04.

14 Q. You work in the GMAC  
15 Mortgage office in Fort Washington,  
16 Pennsylvania; is that correct?

17 A. That is correct.

18 Q. Approximately, how many  
19 people work in that office?

20 A. I can't estimate the number  
21 of people. I can say my department,  
22 approximately 50 to 60 people.

23 Q. What's the name of your  
24 department?

25 A. Foreclosures.

1 STEPHAN

2 Q. When you began working for  
3 GMAC Mortgage in 2004, what position did  
4 you begin working in?

5 A. I was a foreclosure  
6 specialist.

7 Q. What kinds of duties did  
8 that involve?

9 A. That involved the day-to-day  
10 handling and servicing of a portfolio of  
11 loans that fell into a foreclosure  
12 category.

13 Q. What kinds of duties did you  
14 carry out with respect to those matters?

15 MS. PITNEY: Object to form.

16 MR. COX: You have to  
17 answer.

18 MS. PITNEY: You can answer  
19 the question.

20 THE WITNESS: The everyday  
21 servicing of the file, from  
22 contacting the attorney, supplying  
23 an attorney who's handling a case  
24 within my portfolio with any  
25 information they may need, a copy

1 STEPHAN

2 of documents that may be needed  
3 through a fax form or e-mail form,  
4 the calculation of figures for  
5 judgments, reporting sale results  
6 at that time, and properly  
7 conveying properties to the proper  
8 departments for post sale action.

9 BY MR. COX:

10 Q. How long did you hold the  
11 position of foreclosure specialist?

12 A. With GMAC, three years.

13 Q. So you would have assumed a  
14 new position sometime in 2007?

15 A. Yes.

16 Q. What position did you assume  
17 in 2007?

18 A. I became a team lead within  
19 the foreclosure department.

20 Q. What duties did you assume  
21 as the team lead in the foreclosure  
22 department?

23 A. At that time, GMAC  
24 segregated our department into teams, and  
25 I was put into place as the supervisor or

1 STEPHAN

2 team lead for our bidding team, which  
3 would be a team of individuals who  
4 calculate the bids for sales.

5 Q. Calculate the bids for sales  
6 of mortgage --

7 A. Foreclosure sales.

8 MR. FLEISCHER: Again, let  
9 him finish the question.

10 BY MR. COX:

11 Q. Just so I can understand it,  
12 your role in that position was to help  
13 GMAC calculate what it was going to bid  
14 at any given foreclosure sale?

15 A. That would be correct.

16 Q. The foreclosure  
17 department -- is that what it's called?

18 A. Yes.

19 Q. That has units within it?

20 A. Yes.

21 Q. And when you were doing the  
22 bidding work, what unit were you a part  
23 of at that time?

24 A. The bid team.

25 Q. How long did you serve on

1 STEPHAN

2 the bid team?

3 A. I'm going to estimate six  
4 months to a year, at the most.

5 Q. Does it sound roughly  
6 correct that sometime in 2008, you  
7 assumed a new position?

8 A. Yes.

9 Q. What was the next position  
10 that you held after working on the bid  
11 team?

12 A. My present position, which  
13 is the team lead of the document  
14 execution team.

15 Q. Is there also a service  
16 transfer unit?

17 A. Yes, there is.

18 Q. Are you the team lead of  
19 that as well?

20 A. Yes, I am. That falls into  
21 the document execution team.

22 Q. So I talk your language,  
23 there's a foreclosure department?

24 A. Yes.

25 Q. And the subdivisions within

## STEPHAN

that, do you call them teams or units?

## A .      Teams .

Q. So there's a foreclosure department, and then within it are a group of teams that do different functions; is that correct?

A. That is correct.

Q. What does the document execution team do?

MR. FLEISCHER: Objection as  
to m.

THE WITNESS: Can you rephrase that?

BY MR. COX:

Q. What are the functions of the document execution team?

18                   A.        The functions of my document  
19 execution team is, I have staff that  
20 prints documents, from our computer  
21 system, that are submitted from our  
22 attorney network. I have staff, also, on  
23 that team who prepares the documents  
24 which have already received figures from  
25 our attorneys. So there are completed

1 STEPHAN

2 documents. They fill in the blanks, they  
3 stamp names. They ensure that all of the  
4 notary lines are completed properly once  
5 it's returned from the notary. And that  
6 staff also is in charge of making sure  
7 they Federal Express the document back to  
8 the designated attorney within our  
9 network.

10 Q. What does the service  
11 transfer team do?

12 A. The service transfer team  
13 receives a list of loans from our  
14 transfer management team, which is  
15 located in Iowa. The service transfer  
16 team within foreclosure only handles  
17 loans that fall into a bankruptcy or  
18 foreclosure category. They prepare files  
19 or CDs, and transfer them to the new  
20 servicer. So they're loans that are  
21 either acquired, or they're loans that  
22 are being transferred to a new servicer  
23 for service.

24 Q. How many employees are on  
25 the document execution team?

1 STEPHAN

2 A. 14.

3 Q. Including yourself?

4 A. No; including me, 15.

5 Q. What training have you  
6 received from GMAC to function in your  
7 capacity as the team lead for the  
8 document execution team?

9 MS. PITNEY: Object to form.

10 BY MR. COX:

11 Q. Let me restate the question.  
12 Have you received any training from GMAC  
13 to use in conjunction with your  
14 performance as the team lead for the  
15 document execution team?

16 A. Yes.

17 Q. What training have you  
18 received?

19 A. I received side-by-side  
20 training from another team lead to  
21 instruct me on how to review the  
22 documents when they are received from my  
23 staff.

24 Q. Who was that person?

25 A. That person, at the time, I

1 STEPHAN

2 believe was a gentleman by the name of  
3 Kenneth Ugwuadu, U-G-W-U-A-D-U. He is no  
4 longer with GMAC.

5 Q. How long did that training  
6 last?

7 A. Three days.

8 Q. Were there any written or  
9 printed training materials or manuals  
10 used as a part of that training?

11 A. No.

12 Q. Again, just so I understand  
13 what your testimony was, that training  
14 involved your learning how to review the  
15 documents that were being processed  
16 through your hands; is that correct?

17 A. That's correct.

18 Q. What were you trained to do  
19 with respect to those documents by that  
20 gentleman?

21 A. Basically, how to review the  
22 system, which I already basically knew  
23 from preparing documents in my prior  
24 position before becoming a team lead. So  
25 it was more or less a rehash, let's say,

1 | STEPHAN

2 or restraining, to confirm that I was  
3 looking at things correctly in the  
4 system.

5 Q. When you refer to a system,  
6 you're referring to a computer system?

7 | A. Yes.

8                   Q.        Other than what you might  
9 call it when you're not happy, does that  
10 system have a name?

11                   A.        Yes.    That system is called  
12    Fiserv.  F-I-S-E-R-V.

13 Q. Have you received any  
14 training on how to use that system?

15 A. Yes, when I was hired.

16 Q. Are there any manuals or  
17 training materials associated with your  
18 training on that system?

19 A. Yes, there is.

20 Q. Do you have those manuals in  
21 your possession?

22 | A. Presently, no

23 Q. Do they exist in your office  
24 at GMAC?

25 | A. I honestly don't know.

1 STEPHAN

2 Q. In your role as team lead  
3 for the document execution team, do you  
4 have any duties with respect to the  
5 receipt, application, or counting for  
6 loan payments?

7 A. No.

8 MS. PITNEY: Object to the  
9 form of the question.

10 BY MR. COX:

11 Q. What department has that  
12 responsibility?

13 A. To my understanding, that  
14 would be customer service. And within  
15 customer service, I believe there is a  
16 cash unit.

17 Q. Have you ever worked in that  
18 cash unit?

19 A. No.

20 Q. Have you ever worked in that  
21 customer service department?

22 A. No.

23 Q. Have you ever had any  
24 training in how that department and unit  
25 work?

1 STEPHAN

2 A. No.

3 Q. In your capacity as team  
4 lead for the document execution team, do  
5 you have any responsibility for data  
6 entry into the computer system regarding  
7 payments received by GMAC?

8 A. No.

9 Q. In your capacity as the team  
10 lead for the document execution team, do  
11 you have any role in the foreclosure  
12 process at GMAC, other than the signing  
13 of documents?

14 MR. FLEISCHER: Objection as  
15 to the form of the question.

16 THE WITNESS: Can you  
17 rephrase?

18 BY MR. COX:

19 Q. In your capacity as the team  
20 lead for the document execution team, do  
21 you have any role in the foreclosure  
22 process, other than the signing of  
23 documents?

24 A. No.

25 Q. I'm going to hand you what

1 STEPHAN

2 we have marked as Deposition Exhibit  
3 Number 1, which is your affidavit in this  
4 case, dated August 5, 2009.

5 MS. PITNEY: Excuse me, Tom.

6 This is Julia. Am I to presume  
7 that this is the only exhibit  
8 you're going to be introducing?  
9 Because I haven't received any  
10 exhibits that you plan to produce  
11 at this deposition today.

12 MR. COX: I had no idea you  
13 were going to be participating  
14 today, Julia.

15 MS. PITNEY: Well, I  
16 represent the plaintiff. It  
17 shouldn't come as any surprise.

18 MR. COX: We're not going to  
19 have a debate on the record. The  
20 exhibits are here. You're welcome  
21 to come see them. I had no idea  
22 that you were going to participate  
23 in this fashion.

24 MS. PITNEY: You had no  
25 idea?

1 STEPHAN

2 MR. COX: I'm not going to  
3 have this exchange on the record  
4 with you. If you want to go off  
5 the record for a minute, I'll be  
6 happy to do it.

7 MS. PITNEY: No, we're going  
8 to stay right on the record, Tom.

9 MR. COX: That's fine.

10 MS. PITNEY: Is it your  
11 intent to introduce these exhibits  
12 that have not been produced to the  
13 opposing party?

14 MR. COX: I'm not going to  
15 respond to that. I will entertain  
16 objections that you are going to  
17 make. But I'm not going to  
18 respond to your questions on the  
19 record.

20 MS. PITNEY: I'm going to  
21 object to each and every exhibit.

22 MR. COX: That's your right  
23 to do that.

24 BY MR. COX:

25 Q. I've handed you Deposition

1 STEPHAN

2 Exhibit Number 1, Mr. Stephan. Is that a  
3 document signed by you?

4 A. Yes, that is my signature.

5 Q. And that's dated August 5,  
6 2009?

7 A. That is correct.

8 Q. Do you have any memory of  
9 signing that document?

10 A. No, I do not.

11 MS. PITNEY: I'd like to  
12 take a brief break and speak with  
13 Attorney Fleischer separately.  
14 There's no question pending.

15 (Whereupon, a short recess  
16 was taken.)

17 MR. COX: I gather you have  
18 something you want to say on the  
19 record, Julia?

20 MS. PITNEY: Yes. I object  
21 to not being provided copies of  
22 the documents that you intend to  
23 introduce in this deposition. And  
24 in an effort to make things more  
25 efficient, my proposal is that --

1 STEPHAN

2 I understand there's not a large  
3 number of documents. I propose  
4 that we have Attorney Fleischer  
5 fax them to me, or e-mail, in  
6 bulk, or we're going to have to  
7 stop. I would object. And each  
8 time I'm going to stop and have  
9 each document sent to me.

10 MR. COX: Your objection is  
11 noted.

12 MR. FLEISCHER: Why don't we  
13 at least just deal with the one  
14 document that's in front of us at  
15 this point, which is the  
16 affidavit, and then we'll address  
17 each one as they come up.

18 MS. PITNEY: Fair enough.

19 BY MR. COX:

20 Q. Mr. Stephan, you've  
21 testified that in addition to yourself,  
22 there are 14 other employees in your  
23 document execution team.

24 A. That is correct.

25 Q. You have a title of limited

1 STEPHAN

2 signing officer; is that correct?

3 A. That is correct.

4 Q. How long have you been a  
5 limited signing officer for GMAC  
6 Mortgage?

7 A. I'm going to estimate, two  
8 years.

9 Q. Are there any other limited  
10 signing officers among the 14 people on  
11 your team?

12 A. No, not amongst my 14  
13 people.

14 Q. Exhibit-1, on the bottom of  
15 the first page, says: I have under my  
16 custody and control the records relating  
17 to the mortgage transaction referenced  
18 below.

19 What records does GMAC  
20 maintain with respect to mortgage  
21 transactions?

22 MS. PITNEY: Object to the  
23 form.

24 THE WITNESS: Please  
25 rephrase.

1 STEPHAN

2 BY MR. COX:

3 Q. What records does GMAC  
4 maintain with respect to mortgage loans?

5 A. We keep our records for the  
6 foreclosure department and the rest of  
7 the company on our Fiserv system for  
8 availability throughout our company.

9 Q. Do paper records exist  
10 anywhere within GMAC Mortgage?

11 A. Yes, they do.

12 Q. Where do they exist?

13 A. I believe they are housed  
14 either in our Iowa office or in  
15 Minnesota, or with any of our custodians  
16 involved within the company.

17 Q. Do you have any  
18 responsibilities for making entries in  
19 the Fiserv system?

20 A. Other than just usual notes,  
21 no.

22 Q. What kind of usual notes do  
23 you enter?

24 MS. PITNEY: Object. I'm  
25 objecting to the form of the

1 STEPHAN

2 question. And, furthermore, I'm  
3 objecting to the extent that  
4 you're basically asking him an  
5 incredibly broad-based question  
6 here, Tom. If you want to ask him  
7 about this case and any entries he  
8 made with respect to this case,  
9 then that's fine. But your  
10 question is pretty sweeping there.

11 BY MR. COX:

12 Q. What is your usual business  
13 practice and routine with respect to  
14 making usual notes in the Fiserv system?

15 A. If a customer were to call  
16 in, I would make a note in our computer  
17 system.

18 Q. Do customers call you in  
19 your capacity as team lead for the  
20 document execution team?

21 A. No, they do not.

22 Q. So if that's the only kind  
23 of notes that you would make in the  
24 system, is it fair to say that you don't  
25 make notes in that system?

1 STEPHAN

2 A. That would be correct.

3 Q. And you have no role in the  
4 entry of any other data into that system;  
5 isn't that correct?

6 A. That is correct.

7 Q. What department maintains  
8 that system?

9 MR. FLEISCHER: Objection as  
10 to form.

11 BY MR. COX:

12 Q. Do you know what department  
13 maintains that system?

14 A. The system is used by the  
15 entire company.

16 Q. Do you know what department  
17 maintains the security for that system?

18 A. The IT department.

19 Q. Where is that located?

20 A. Throughout the entire  
21 country.

22 Q. Do you know what department  
23 makes entries into that system?

24 A. Numerous departments.

25 Q. Do you know what departments

1 STEPHAN

2 have the ability to change entries in  
3 that system?

4 A. Nobody has the ability to  
5 change an entry in the system, as far as  
6 a note would go.

7 Q. What do you mean by that?

8 A. Such as if a customer calls  
9 in, you type in the system. Once you  
10 type it, it's entered.

11 Q. Does GMAC keep a paper  
12 record of loan payments made by mortgage  
13 customers?

14 A. I do not know.

15 Q. I think you said that the  
16 cash department receives payments --  
17 customer payments; is that correct?

18 A. To my knowledge, yes.

19 Q. That's the department that  
20 you've said you have not worked in; is  
21 that correct?

22 A. That is correct.

23 Q. So you don't have firsthand  
24 knowledge about how it operates; is that  
25 correct?

1 STEPHAN

2 A. That is correct.

3 MS. PITNEY: Object.

4 BY MR. COX:

5 Q. Do you have any knowledge  
6 about how the data relating to those  
7 payments are entered into the system?

8 A. I do not have that  
9 knowledge.

10 Q. Do you have any knowledge  
11 about how GMAC ensures the accuracy of  
12 the data entered into the system?

13 A. No, I do not.

14 Q. Do you have any knowledge as  
15 to what measures GMAC takes to preserve  
16 the integrity and security of the system?

17 A. No, I do not.

18 MS. PITNEY: Object to the  
19 form of that question.

20 BY MR. COX:

21 Q. In your capacity as team  
22 lead for the document execution team,  
23 what kinds of documents do you sign?

24 A. The types of documents I  
25 sign are assignments of mortgage,

1 STEPHAN

2 numerous types of affidavits, deeds that  
3 need to be done post sale, a substitution  
4 of trustees. And that covers it in a  
5 general span.

6 Q. You said you sign a variety  
7 of affidavits. What kinds of affidavits  
8 do you sign?

9 A. I sign judgment affidavits  
10 for judicial foreclosure actions. I will  
11 sign an affidavit verifying military  
12 duty. I sign affidavits in reference to  
13 -- if GMAC has exhausted all options  
14 through lost mitigation upon reviewing  
15 notes in our Fiserv system. That's a  
16 general description of different types  
17 of affidavits.

18 Q. Your document execution team  
19 provides documents for foreclosures in  
20 what states?

21 A. Throughout the country.

22 Q. Are there other document  
23 execution teams within the GMAC system?

24 A. I believe our bankruptcy  
25 unit also has a document execution team.

1 STEPHAN

2 Q. That's the only other  
3 document execution team that you're aware  
4 of?

5 A. To my knowledge, yes.

6 Q. When you referred in one of  
7 your answers a few moments ago to  
8 judgment affidavits, are you referring to  
9 the type of affidavit in front of you, as  
10 Deposition Exhibit-1?

11 A. That is a similar type of  
12 affidavit, yes. This states Affidavit in  
13 Support of the Plaintiff's Motion for  
14 Summary Judgment.

15 Q. Have you received any  
16 training regarding the summary judgment  
17 process in judicial foreclosure states?

18 A. No.

19 Q. Do you have any knowledge as  
20 to what a summary judgment affidavit is  
21 used for in the State of Maine?

22 MR. FLEISCHER: Objection as  
23 to form.

24 BY MR. COX:

25 Q. Would you please answer the

1 STEPHAN

2 question?

3 A. To my knowledge, a borrower  
4 would have filed a contested answer. And  
5 this would be our next step within the  
6 process, to confirm the amount that is  
7 due to support the summary judgment.

8 Q. Do you understand how the  
9 affidavit is used, that is, Deposition  
10 Exhibit Number 1?

11 MS. PITNEY: Objection.

12 Tom, you're getting dangerously  
13 close here to the privileged area.

14 I mean, this affidavit, in itself,  
15 was prepared in preparation for  
16 litigation -- in litigation; not  
17 even preparation for it, but  
18 during litigation.

19 MR. COX: I have not the  
20 slightest interest in getting into  
21 attorney/client privilege. I'll  
22 rephrase the question.

23 BY MR. COX:

24 Q. Do you have any knowledge of  
25 how summary judgment affidavits are used

STEPHAN

2 in judicial foreclosure states?

3 A. N.O.

4 Q. Are you aware that they are  
5 given to a judge?

6 A. Yes.

7 Q. And do you understand that  
8 the judge relies upon them?

9 | A. Yes.

10 Q. At the time that you  
11 executed Deposition Exhibit-1 on August  
12 5, 2009, you were, at that time, in your  
13 position as team lead for the document  
14 execution department?

15 A. Yes.

16 Q. Has the manner in which you  
17 perform your duties as the team lead for  
18 the document execution department changed  
19 in any way over the period from August 5,  
20 2009 to the present date?

21 A. N. Q.

22 Q. Has your job description  
23 changed in any manner during that time?

24                   A.        I assumed the responsibility  
25 at that time of also handling the service

1 STEPHAN  
2 transfer team as an additional  
3 responsibility; other than document  
4 execution, no.

5 Q. In your usual business  
6 practice as a team lead for the document  
7 execution team, how does a summary  
8 judgment affidavit come to you, such as  
9 the one that is Deposition Exhibit Number  
10 1?

11 MS. PITNEY: Objection.

12 Tom, if you'd like to ask him  
13 about how this specific affidavit  
14 came to him, that's fine. But,  
15 again, you're asking way too  
16 broad.

17 BY MR. COX:

18 Q. Do you know how this  
19 specific affidavit got to you, Mr.  
20 Stephan?

21 A. We have a process in place  
22 that if our attorney network needs an  
23 affidavit, they will upload it into our  
24 system, which is called LPS. We have  
25 another system, which is a communication

1 STEPHAN

2 tool, between our attorneys. They load  
3 it into a process called signature  
4 required.

5 MS. PITNEY: Jeff, I'm going  
6 to interrupt you right there. To  
7 the extent that this answer or  
8 anything else that you say has to  
9 do with your communication between  
10 you and your attorney -- GMAC and  
11 its attorney, it's attorney/client  
12 privilege.

13 THE WITNESS: So I won't  
14 answer.

15 MR. COX: Well, let's go  
16 back and ask the question again.

17 MS. PITNEY: He's answered  
18 the question. He gets the  
19 affidavit from the attorney.

20 BY MR. COX:

21 Q. What is the LPS system?

22 A. That is a communication tool  
23 with our attorney network.

24 Q. Is LPS a separate company?

25 A. Yes.

1 STEPHAN

2 MS. PITNEY: Objection. The  
3 means by which he communicates any  
4 details about -- the means by  
5 which he communicates with his  
6 attorneys is privileged.

7 BY MR. COX:

8 Q. What does LPS do?

9 MS. PITNEY: I'm going to  
10 object again on privilege grounds.  
11 Same objection. Do not answer  
12 that question.

13 THE WITNESS: Okay.

14 BY MR. COX:

15 Q. Is the source of what you  
16 know about what LPS does based upon any  
17 communication that you've had with  
18 lawyers?

19 A. Sorry. Please rephrase  
20 that. I don't understand your question.

21 Q. Do you know what LPS does  
22 with respect to documents processed by  
23 your unit?

24 MS. PITNEY: Objection.

25 Same objection.

1 STEPHAN

2 MR. COX: He can answer that  
3 yes or no.

4 THE WITNESS: I still don't  
5 understand what you're asking.

6 BY MR. COX:

7 Q. You've mentioned LPS.

8 A. Right.

9 Q. That's a separate company;  
10 is that correct?

11 A. It's a system that we have  
12 acquired from a company by the name of  
13 Fidelity, in order to have communication  
14 between our attorneys.

15 Q. Do you have any memory of  
16 specifically receiving Deposition  
17 Exhibit-1?

18 A. No.

19 Q. Again, I'm asking you, based  
20 upon that, to describe what the usual  
21 business practice is within your unit, as  
22 far as how affidavits, such as Deposition  
23 Exhibit-1, come to you.

24 A. Our attorney will load it to  
25 the LPS system. Members of my team will

1 STEPHAN

2 print it. Other members will prepare it.  
3 The figures have already been loaded from  
4 our network of attorneys. So my team  
5 does not have any input on the affidavit,  
6 other than filling in my name. They  
7 bring it to me. I review it against our  
8 Fiserv system, execute it, hand it back.  
9 They get it notarized. It's Federal  
10 Expressed back to the individual attorney  
11 asking.

12 Q. Do you keep a log of any  
13 sort of what documents you execute?

14 MS. PITNEY: I'm sorry. Can  
15 you repeat the question, Tom? I  
16 could not hear that.

17 BY MR. COX:

18 Q. Do you keep a log of any  
19 sort of what documents you execute?

20 MS. PITNEY: Objection.  
21 Work product. Any type of log  
22 that he keeps relative to these  
23 affidavits is prepared in  
24 preparation for litigation; to the  
25 extent that one even exists.

1 STEPHAN

2 MR. COX: He can answer the  
3 question of whether or not he  
4 keeps a log, before I ask him what  
5 goes into the log.

6 MS. PITNEY: Fine.

7 THE WITNESS: No, I don't  
8 have a log.

9 BY MR. COX:

10 Q. Does anybody keep a log of  
11 what documents you sign?

12 MS. PITNEY: Object to the  
13 form of that question.

14 THE WITNESS: Please  
15 rephrase.

16 BY MR. COX:

17 Q. Do you know if anybody keeps  
18 a log of what documents you execute?

19 A. We have notaries in our  
20 department, approximately six, who keep a  
21 log for what they notarize.

22 Q. These are notaries within  
23 your department?

24 A. That is correct.

25 Q. As I understand it, the

1 STEPHAN

2 first step is, in your department, a  
3 document comes in on the LPS system from  
4 the outside lawyer; is that correct?

5 A. That is correct.

6 Q. And then an employee in your  
7 department prints it out; is that  
8 correct?

9 A. That is correct.

10 Q. And then you said that the  
11 employee prepares the document. What  
12 does that mean?

13 MS. PITNEY: Objection. The  
14 document is prepared for  
15 litigation. It is privileged.  
16 How it is prepared is privileged.  
17 Do not answer that question.

18 BY MR. COX:

19 Q. Do your employees have any  
20 direct communication with outside  
21 counsel?

22 A. Yes, through the LPS system.

23 MS. PITNEY: Objection. How  
24 and what he communicates with his  
25 attorney is privileged, Tom.

1 STEPHAN

2 MR. COX: I haven't asked  
3 for the content. I asked if it  
4 happens.

5 BY MR. COX:

6 Q. Would you answer the  
7 question, please?

8 A. Yes, through the LPS system.

9 Q. Is anything done to a  
10 document submitted to the LPS system by  
11 an outside lawyer before it reaches your  
12 hands?

13 MS. PITNEY: Objection.

14 Preparation of the document is  
15 privileged. It's for litigation.  
16 Do not answer the question.

17 BY MR. COX:

18 Q. Is the document that is  
19 received in the LPS system from outside  
20 counsel presented to you in exactly the  
21 form that it is received in from outside  
22 counsel?

23 MS. PITNEY: Objection.

24 Same objection.

25 MR. COX: Is it an

1 STEPHAN

2 objection, or are you instructing  
3 him not to answer?

4 MS. PITNEY: I'm instructing  
5 him not to answer, to the extent  
6 you're asking him questions about  
7 a document that was prepared  
8 specifically during the course of  
9 litigation. It's protected by  
10 privilege, and you can't ask him  
11 questions about it.

12 BY MR. COX:

13 Q. Deposition Exhibit-1 has  
14 your name stamped on it with a stamp; is  
15 that correct?

16 A. That is correct.

17 Q. And below your name, the  
18 words "limited signing officer" appear;  
19 is that correct?

20 A. That is correct.

21 Q. Who puts that stamp on these  
22 affidavits?

23 A. My team.

24 Q. On this particular  
25 affidavit, your name and title is stamped

1 STEPHAN

2 twice on the first page, and once on the  
3 signature page for you; is that correct?

4 A. That is correct.

5 Q. And then it's stamped again  
6 on the notary page; is that correct?

7 A. That is correct.

8 Q. So as I understand it, an  
9 affidavit, such as Deposition Exhibit-1,  
10 is initially prepared by outside counsel?

11 MS. PITNEY: Objection.

12 BY MR. COX:

13 Q. Is that correct?

14 A. Yes, that is correct.

15 Q. Does anybody on your team  
16 verify the accuracy of any of the  
17 contents of the affidavit before it  
18 reaches your hands?

19 MS. PITNEY: Objection  
20 again. How the document is  
21 prepared -- you can ask him  
22 questions about the document and  
23 what's stated in the document.

24 The preparation of the document,  
25 which is prepared for litigation,

## STEPHAN

2                   is privileged. Do not answer the  
3                   question, Jeff.

4 | BY MR. COX:

5 Q. Mr. Stephan, do you recall  
6 testifying in your Florida deposition in  
7 December, with regard to your employees,  
8 and you said, quote, they do not go into  
9 the system and verify the information as  
10 accurate?

11 A. That is correct.

MS. PITNEY: I'm sorry.

13                   Tom, could you please repeat what  
14                   you just said? I just couldn't  
15                   hear.

16 MR. COX: Quote: They do  
17 not go into the system and verify  
18 the information as accurate.

19 BY MR COX:

20 | Q Is that correct?

21 A That is correct

25 MR. COX: The Florida case

1 STEPHAN

2 that he testified in.

3 MR. FLEISCHER: I just  
4 thought you might have a reference  
5 there.

6 MR. COX: I'll get it  
7 shortly.

8 BY MR. COX:

9 Q. Do you and your 14-person  
10 team all work in the same physical space?

11 A. Yes. We're all in the same  
12 department.

13 Q. Do you have an office or a  
14 cubicle, or what?

15 A. Cubicle.

16 Q. Do the employees bring  
17 documents to you to sign?

18 A. That is correct.

19 Q. How many do they bring to  
20 you at a time, on average?

21 A. For a month, anywhere from  
22 six to 8,000 documents.

23 Q. Do you recall testifying in  
24 your Florida deposition in December that  
25 you estimated it was 10,000 documents a

1 STEPHAN

2 month?

3 A. I do not recall. I'm going  
4 off of numbers within the past month or  
5 so.

6 Q. Have those numbers gone down  
7 in the past month or so?

8 A. There has been a decrease.

9 Q. Back in December, were you  
10 signing in the range of 10,000 documents  
11 a month?

12 A. I may have been.

13 Q. Back in August of 2009,  
14 roughly, how many documents a month were  
15 you signing?

16 A. I cannot estimate. I don't  
17 know.

18 Q. Do you believe that it was  
19 more or less than the number you were  
20 signing in December?

21 A. I'm going to assume, more.

22 Q. And on a given day, I  
23 understand an employee brings you a group  
24 of documents for you to sign; is that  
25 correct?

1 STEPHAN

2 A. That would be correct.

3 Q. Roughly, how many are  
4 brought to you in a group, on average?

5 A. Throughout a day, I believe  
6 we are averaging approximately 400 new  
7 requests coming in from our attorney  
8 network. So I would say approximately  
9 400 per day.

10 Q. This sounds very basic.  
11 But, physically, are you handed a pile of  
12 100 documents, 300 documents? How does  
13 that work?

14 A. They bring them to me in  
15 individual folders from each one of the  
16 members of my team. I do not count how  
17 many are in the files.

18 Q. So each team employee has a  
19 folder of document; is that correct?

20 A. That is correct.

21 Q. When you receive a summary  
22 judgment affidavit to be signed by you,  
23 is it accompanied by any other documents  
24 relating to the loan?

25 MS. PITNEY: Objection. The

1 STEPHAN  
2 document is prepared for  
3 litigation. And anything he does  
4 when he's preparing it is  
5 privileged.

6 MR. COX: Are you telling  
7 him not to answer?

8 MS. PITNEY: I am. Tom, if  
9 you want to ask him about general  
10 procedures, which you have been,  
11 then I'm not going to object as  
12 much. But if you want to ask him  
13 about what goes into preparing a  
14 document that was used for summary  
15 judgment, that's clearly prepared  
16 for litigation, and it's  
17 privileged and protected.

21 BY MR. COX:

22 Q. When you receive a summary  
23 judgment document for your execution, is  
24 it accompanied by any other documents?

25 M. S. P. I. T. N. E. Y.: M Y o b j e c t i o n i s

1 STEPHAN

2 -- you can answer that question,  
3 Jeff.

4 THE WITNESS: There are  
5 times when it has the Complaint  
6 connected. There are times when  
7 it is brought to me just as the  
8 affidavit.

9 BY MR. COX:

10 Q. When you say that there are  
11 times when it comes to you with a  
12 Complaint connected, you mean attached as  
13 an exhibit?

14 A. Such as this one, yes.

15 Q. When you say "this one,"  
16 you're referring to Deposition Exhibit-1?

17 A. Yes, that is correct.

18 Q. Deposition Exhibit-1 has  
19 several exhibits attached to it; is that  
20 correct?

21 MS. PITNEY: Could you  
22 please tell me what the exhibits  
23 that are attached are, because I  
24 don't have the benefit of having  
25 them in front of me?

1 STEPHAN

2 THE WITNESS: Exhibit-A is a  
3 copy of the note and the --

4 MR. COX: Julia, this is  
5 your summary judgment affidavit.

6 MS. PITNEY: I'm not  
7 doubting that it is. I just don't  
8 know what these other exhibits  
9 attached are.

10 MR. COX: Don't you have  
11 your copy?

12 MS. PITNEY: You're the one  
13 verifying if they're the same as  
14 the one I'm looking at, Tom.

15 THE WITNESS: Exhibit-B is  
16 the mortgage. Exhibit-C is the  
17 assignment of note and mortgage.  
18 Exhibit-D -- I believe we're  
19 looking at the demand, or the  
20 breach letter. And those are the  
21 four documents that are connected  
22 to this affidavit of summary  
23 judgment.

24 BY MR. COX:

25 Q. In your usual practice, are

1 STEPHAN

2 those exhibits attached to the affidavit  
3 at the time that you sign them?

4 MS. PITNEY: Objection.

5 You're asking about a document  
6 that was prepared by an attorney.  
7 Anything that comes with it that  
8 he's asked to review is  
9 privileged -- the communication  
10 between a client and an attorney.

11 Do not answer the question.

12 BY MR. COX:

13 Q. Mr. Stephan, would you  
14 please look at Paragraph 3 of Exhibit-1.  
15 Do you see there the statement: That a  
16 true and correct copy of which is  
17 attached hereto is Exhibit-A?

18 A. Where are you looking?

19 Q. Paragraph 3. Do you see  
20 that statement?

21 A. Yes, I do.

22 Q. When you sign an affidavit  
23 such as Exhibit-1, are the exhibits  
24 attached to it?

25 MS. PITNEY: Objection. A

1 STEPHAN

2 document that's provided to him by  
3 an attorney is privileged.

4 MR. COX: Are you telling  
5 him not to answer that question?

6 MS. PITNEY: Yes. I'll say  
7 again, Tom, if you would like to  
8 ask him about the facts that are  
9 in the affidavit, the details  
10 about this loan -- which I might  
11 remind you involves a woman by the  
12 name of Nicole Bradbury -- then  
13 I'm sure Jeff will answer your  
14 question?

15 MR. COX: Well, he has the  
16 affidavit in front of him in this  
17 case. And the affidavit which he  
18 swore to says a true and correct  
19 copy of the note is attached to  
20 it. And I'm asking him if that  
21 document was attached to it at the  
22 time that he signed it.

23 BY MR. COX:

24 Q. Would you please answer that  
25 question?

1 STEPHAN

2 A. To my knowledge, I do not  
3 recall.

4 Q. Is it your usual business  
5 practice to have exhibits attached to  
6 affidavits that you sign?

7 A. Yes.

8 Q. All exhibits?

9 MS. PITNEY: Object to form.

10 THE WITNESS: I do not know.

11 BY MR. COX:

12 Q. When you sign a summary  
13 judgment affidavit, do you check to see  
14 if all the exhibits are attached to it?

15 A. No.

16 Q. Does anybody in your  
17 department check to see if all the  
18 exhibits are attached to it at the time  
19 that it is presented to you for your  
20 signature?

21 A. No.

22 Q. When you sign a summary  
23 judgment affidavit, do you inspect any  
24 exhibits attached to it?

25 A. No.

1 STEPHAN

2 MS. PITNEY: Could you  
3 repeat the question, Tom? Did you  
4 say -- or can you have it read  
5 back, please?

6 (Whereupon, the pertinent  
7 portion of the record was read.)

8 MS. PITNEY: Object to the  
9 form.

10 BY MR. COX:

11 Q. What happens to an affidavit  
12 in your department after you sign it?

13 MS. PITNEY: Objection.  
14 What happens to the document  
15 afterwards is -- it's in the  
16 course of litigation. The same  
17 objection as I said before. Where  
18 it goes is privileged.

19 MR. COX: Where it goes is  
20 not a communication. It is not  
21 privileged.

22 MS. PITNEY: You don't know  
23 that.

24 MR. COX: Pardon me?

25 MS. PITNEY: You don't

1 STEPHAN

2 necessarily know that.

3 MR. COX: The physical  
4 movement of a document is not a  
5 communication. It's a fact.

6 BY MR. COX:

7 Q. My question to you is, where  
8 does a summary judgment go after you sign  
9 it?

10 A. After I sign it, it is  
11 handed back to my staff. My staff hands  
12 it to a notary for notarization. It is  
13 then handed back to my staff. They send  
14 it back to the network attorney  
15 requesting any type of affidavit.

16 Q. So you do not appear before  
17 the notary; is that correct?

18 A. I do not.

19 Q. What does your staff do with  
20 a summary judgment affidavit, such as  
21 Deposition Exhibit-1, after it receives  
22 it back from the notary?

23 A. They go into our LPS system,  
24 close out process, stating it's being  
25 sent back to --

1 STEPHAN

2 MS. PITNEY: Objection.

3 Sorry. I don't mean to interrupt  
4 you, Jeff. I'm going to instruct  
5 you not to answer anything else,  
6 because you've already testified  
7 that the LPS system is the means  
8 by which you communicate with your  
9 attorney. The attorney/client  
10 communication is privileged. So  
11 don't continue to answer the  
12 question.

13 Actually, if there is no  
14 question, pending, I'd like to  
15 take a brief break to discuss  
16 something with Brian Fleischer.

17 (Whereupon, a short recess  
18 was taken.)

19 BY MR. COX:

20 Q. Mr. Stephan, do you recall  
21 testifying in your Florida deposition in  
22 December that you rely on your attorney  
23 network to ensure that the documents that  
24 you receive are correct and accurate?

25 A. That is correct.

1 STEPHAN

2 Q. And is that, in fact, the  
3 case?

4 A. Yes.

5 Q. And your department does not  
6 do any independent accuracy check of  
7 those records; isn't that correct?

8 MR. FLEISCHER: Objection as  
9 form.

10 THE WITNESS: Can you  
11 rephrase?

12 BY MR. COX:

13 Q. Your department does not do  
14 any independent check of the accuracy of  
15 the information on the summary judgments  
16 coming to you; isn't that correct?

17 A. I review, quickly, the  
18 figures. Other than that, that's about  
19 it.

20 Q. Do you recall testifying in  
21 your Florida deposition in December, that  
22 the affidavits that you sign are not  
23 based upon your own personal knowledge?

24 A. I do not recall.

25 MS. PITNEY: Objection to

1 STEPHAN

2 the form.

3 BY MR. COX:

4 Q. You do not recall that?

5 A. I do not recall.

6 Q. When you receive a summary  
7 judgment affidavit from one of your staff  
8 members, what do you do with it?

9 A. I will first review it  
10 against our computer system, which is  
11 Fiserv, in general terms, to verify that  
12 the figures are correct. And then I will  
13 execute it and hand it back to my staff  
14 to have it notarized.

15 Q. You say "in general terms"  
16 you review it. What do you mean?

17 MS. PITNEY: Objection.

18 THE WITNESS: I compare the  
19 principal balance. I review the  
20 interests. I take a look at the  
21 late charges. I look at the  
22 outstanding escrow amounts. When  
23 I say "general terms," I mean I'm  
24 not looking at the escrow and  
25 breaking it down to the penny.

1 STEPHAN

2 I'm saying, yes, it looks correct  
3 in my computer system.

4 BY MR. COX:

5 Q. Is there anything else that  
6 you look at in your computer system when  
7 you're signing a summary judgment  
8 affidavit?

9 MS. PITNEY: I'm sorry. I  
10 couldn't hear the last part of  
11 that.

12 BY MR. COX:

13 Q. Is there anything else that  
14 you look at in your computer system at  
15 the time that you sign a summary judgment  
16 affidavit?

17 A. The only other thing I  
18 can --

19 MS. PITNEY: One second.

20 Are we talking about the computer  
21 system, the communication system?  
22 I just was asking for  
23 clarification of --

24 MR. COX: Let me clarify it.

25 MS. PITNEY: What computer

1 STEPHAN  
2 communication system Tom was  
3 asking him about.

4 BY MR. COX:

5 Q. You testify that you go into  
6 the First Serve (sic) system; is that  
7 correct?

8 A. Yes, Fiserv.

9 Q. Fiserv. Do you go into any  
10 other computer system at the time that  
11 you're signing a summary judgment  
12 affidavit?

13 A. No.

14 Q. And you just testified that  
15 you look at principal, interest, late  
16 charges and escrow; is that correct?

17 A. That is correct.

18 Q. Is there anything else that  
19 you look at in your computer system when  
20 you're signing a summary judgment  
21 affidavit?

22 A. The only thing I review,  
23 other than that, is who the borrower is.

24 Q. When you receive a summary  
25 judgment affidavit to sign, do you read

1 | STEPHAN

2 every paragraph of it?

3 A. NO.

4 Q. What do you read?

5 A. I look for the figures.

6 Q. That's all that you look at  
7 when you sign a summary judgment  
8 affidavit?

11 Q. Is it fair to say then that  
12 when you sign a summary judgment  
13 affidavit, you do not know what it says,  
14 other than what the figures are that are  
15 contained within it?

16 MR. FLEISCHER: Objection as  
17 to form.

18 MS. PITNEY: Objection to  
19 the form of the question.

20 THE WITNESS: Please  
21 rephrase.

22 BY MR. COX:

23 Q. It fair to say that when you  
24 sign a summary judgment affidavit, you  
25 don't know what information it contains.

## STEPHAN

2 other than the figures that are set forth  
3 within it?

4                   A.        Other than the borrower's  
5 name, and if I have signing authority for  
6 that entity. That is correct.

7 Q. The practice that you've  
8 just described for signing summary  
9 judgment affidavits is the practice that  
10 you use signing all summary judgment  
11 affidavits that you handle; is that  
12 correct?

16 | BY MR. COX:

17 Q. Is that correct?

18                   A.        The practice that I use for  
19 summary judgment affidavits is the same  
20 practice that I use for all affidavits.

21 Q. And that's the one that  
22 you've just described?

23 A. Yes.

24 Q. Is any part of your  
25 compensation at GMAC Mortgage tied to the

1 STEPHAN

2 volume of documents that you sign?

3 A. No.

4 Q. Is any part of your  
5 compensation tied to the volume of  
6 documents that your department processes?

7 A. No.

8 Q. Is it your understanding  
9 that the process that you follow in  
10 signing summary judgment affidavits is  
11 in accordance with the policies and  
12 procedures required of you by GMAC  
13 Mortgage?

14 A. Yes.

15 Q. Does GMAC do any quality  
16 assurance training for your department?

17 A. Presently, no.

18 Q. Has it in the past?

19 A. I do not know.

20 Q. You don't recall any?

21 A. I never received any.

22 Q. Do you have any memory of  
23 checking the numbers on the Bradbury  
24 affidavit that's in front of you as  
25 Deposition Exhibit-1?

1 STEPHAN

2 A. I do not recall.

3 Q. If a loan has been modified,  
4 does that show up in the Fiserv system  
5 that you look at?

6 A. When you say "modified," are  
7 you stating a loan modification?

8 Q. Yes.

9 A. Yes.

10 Q. Does that show up?

11 A. Yes.

12 Q. If a loan has been modified,  
13 is any information put in the summary  
14 judgment affidavits that you sign about  
15 that?

16 MR. FLEISCHER: Objection.

17 Are you talking about modified, or  
18 his term was loan modification. I  
19 just want to make sure we're  
20 clear.

21 MR. COX: That's fine.

22 BY MR. COX:

23 Q. If there's a loan  
24 modification, does information about a  
25 loan modification appear in the summary

1 STEPHAN

2 judgment affidavits that you sign?

3 A. I do not know.

4 MS. PITNEY: In all of them,  
5 or in this one?

6 MR. COX: In any of them.

7 THE WITNESS: I don't know.

8 BY MR. COX:

9 Q. Based upon your testimony,  
10 Mr. Stephan, is it correct that when you  
11 sign a summary judgment affidavit, such  
12 as Deposition Exhibit-1 that is in front  
13 of you, you don't know whether any  
14 portion of it is true, other than the  
15 paragraph containing the numbers that  
16 you just described; is that correct?

17 MS. PITNEY: Object to the  
18 form. Tom, are you asking him  
19 about this affidavit?

20 MR. COX: Well, he's  
21 testified that doesn't recall  
22 signing this particular affidavit,  
23 so that was not my question. Let  
24 me restate it.

25 BY MR. COX:

1 STEPHAN

2 Q. In your practice of signing  
3 summary judgment affidavits, Mr. Stephan,  
4 is it correct that they always have a  
5 paragraph containing the numbers of the  
6 amounts claiming to be due?

7 A. That would be correct.

8 Q. And is it correct that when  
9 you sign those affidavits, you don't know  
10 whether any other part of the affidavit  
11 is true or correct?

12 A. Please advise me. What do  
13 you mean by "any other part"?

14 Q. Any other paragraph, other  
15 than the one containing the numbers.

16 A. I review it for the due  
17 date, if that's included in there.

18 Q. So all of them --

19 A. So that would be the  
20 numbers.

21 Q. So other than the due date  
22 and the balances due, is it correct that  
23 you do not know whether any other part of  
24 the affidavit that you sign is true?

25 A. That could be correct.

1 STEPHAN

2 Q. Is it correct?

3 A. That is correct.

4 Q. And isn't it also correct  
5 that you do not check the numbers on  
6 every single summary judgment affidavit  
7 that you sign?

8 A. That is not correct.

9 Q. You check every single one?

10 A. Yes.

11 Q. How long does it take you,  
12 on average, to process the execution of a  
13 summary judgment affidavit?

14 MS. PITNEY: Object to the  
15 form.

16 MR. COX: Please answer.

17 THE WITNESS: Anywhere from  
18 five to 10 minutes, off the top of  
19 my head.

20 MR. COX: If we can take a  
21 break. I may be done, but we can  
22 take a break for five minutes.

23 (Whereupon, a short recess  
24 was taken.)

25 BY MR. COX:

1 STEPHAN

2 Q. Mr. Stephan, referring you  
3 again to the bottom line on Page 1 of  
4 Exhibit-1, it states: I have under my  
5 custody and control, the records relating  
6 to the mortgage transaction referenced  
7 below.

8 It's correct, is it not,  
9 that you did not have in your custody any  
10 records of GMAC at the time that you  
11 signed a summary judgment affidavit?

12 MS. PITNEY: Objection to  
13 the form.

14 THE WITNESS: I have the  
15 electronic record. I do not have  
16 papers.

17 BY MR. COX:

18 Q. You have access to a  
19 computer. Is that what you mean?

20 A. Yes.

21 Q. You have no control over  
22 that system, do you?

23 MR. FLEISCHER: Objection as  
24 to form.

25 BY MR. COX:

1 STEPHAN

2 Q. You have no control over  
3 that Fiserv computer system, do you?

4 A. No, I do not.

5 Q. And someone else within GMAC  
6 is responsible for ensuring the accuracy  
7 of that system; isn't that correct?

8 A. That would be correct.

9 MR. COX: I have no further  
10 questions.

11 MR. FLEISCHER: We're done,  
12 Julia, unless you have something  
13 to add.

14 MS. PITNEY: No.

15 (Witness excused.)

16 - - -

17 (Whereupon, the deposition  
18 concluded at 11:45 a.m.)

19  
20  
21  
22  
23  
24  
25

I N D E X

Testimony of: Jeffrey Stephan

E X H I B I T S

— — —

11 | NO. DESCRIPTION PAGE

12  
13 1 Affidavit  
14 August 5, 2009

1  
2                   I have read the foregoing transcript  
3                   of my deposition given on June 7, 2010,  
4                   and it is true, correct and complete, to the  
5                   best of my knowledge, recollection and belief,  
6                   except for the corrections noted hereon and/or  
7                   list of corrections, if any, attached on a  
8                   separate sheet herewith.

9  
10

11

-----  
12                   JEFFREY STEPHAN

13  
14

15  
16

17                   Subscribed and sworn to  
18                   before me this \_\_\_\_ day  
19                   of \_\_\_\_\_, 2010.

20  
21

22  
23                   -----  
24                   Notary Public

25

CERTIFICATE

I HEREBY CERTIFY that the witness  
was duly sworn by me and that the  
deposition is a true record of the  
testimony given by the witness.

Susan B. Berkowitz, a  
Registered Professional Reporter  
and Notary Public

Dated: June 9, 2010

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